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**SENATE BILL 18**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2005**

**INTRODUCED BY**

**Timothy Z. Jennings**

**AN ACT**

**RELATING TO TAXATION; PROVIDING A REBATE FOR A PORTION OF TAXES  
IMPOSED FOR THE 2005 TAXABLE YEAR; PROVIDING AN EXEMPTION FROM  
INCOME TAX FOR THE 2005 TAXABLE YEAR REBATE; REDUCING INCOME  
TAX RATES FOR CERTAIN TAXPAYERS DURING THE 2005 AND 2006  
TAXABLE YEARS; PROVIDING FOR A DEDUCTION FROM GROSS RECEIPTS  
FOR RETAIL SALES OF CERTAIN TANGIBLE PERSONAL PROPERTY DURING A  
LIMITED PERIOD; REPEALING SECTIONS OF LAWS 2003, CHAPTER 2 AND  
OF LAWS 2005, CHAPTER 104; MAKING AN APPROPRIATION; DECLARING  
AN EMERGENCY.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 7-2-7 NMSA 1978 (being Laws 2003,  
Chapter 2, Section 4) is amended to read:**

**"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by  
Section 7-2-3 NMSA 1978 shall be at the following rates for any  
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1 taxable year beginning in 2005:

2 A. For married individuals filing separate returns:

3 If the taxable income is:	The tax shall be:
4 Not over \$4,000	1.7% of taxable income
5 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
6	excess over \$ 4,000
7 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
8	excess over \$ 8,000
9 Over \$ 12,000	\$ 384 plus [ <del>6.0%</del>
10	<u>5.7%</u> of excess over
11	\$12,000.

12 B. For surviving spouses and married individuals  
13 filing joint returns:

14 If the taxable income is:	The tax shall be:
15 Not over \$8,000	1.7% of taxable income
16 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
17	excess over \$ 8,000
18 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
19	excess over \$ 16,000
20 Over \$ 24,000	\$ 768 plus [ <del>6.0%</del>
21	<u>5.7%</u> of excess over
22	\$24,000.

23 C. For single individuals and for estates and trusts:

24 If the taxable income is:	The tax shall be:
25 Not over \$5,500	1.7% of taxable income

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1 Over \$ 5,500 but not over \$ 11,000 \$ 93.50 plus 3.2% of  
2 excess over \$ 5,500  
3 Over \$ 11,000 but not over \$ 16,000 \$ 269.50 plus 4.7% of  
4 excess over \$ 11,000  
5 Over \$ 16,000 \$ 504.50 plus [~~6.0%~~  
6 5.7% of excess over  
7 \$16,000.

8 D. For heads of household filing returns:

9 If the taxable income is: The tax shall be:

10 Not over \$7,000 1.7% of taxable income  
11 Over \$ 7,000 but not over \$ 14,000 \$ 119 plus 3.2% of  
12 excess over \$ 7,000  
13 Over \$ 14,000 but not over \$ 20,000 \$ 343 plus 4.7% of  
14 excess over \$ 14,000  
15 Over \$ 20,000 \$ 625 plus [~~6.0%~~  
16 5.7% of excess over  
17 \$ 20,000.

18 E. The tax on the sum of any lump-sum amounts  
19 included in net income is an amount equal to five multiplied by  
20 the difference between:

21 (1) the amount of tax due on the taxpayer's  
22 taxable income; and

23 (2) the amount of tax that would be due on an  
24 amount equal to the taxpayer's taxable income and twenty  
25 percent of the taxpayer's lump-sum amounts included in net

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1 income. "

2 Section 2. Section 7-2-7 NMSA 1978 (being Laws 2003,  
3 Chapter 2, Section 4, as amended, and as further amended by  
4 Section 1 of this act if it becomes law) is repealed and a new  
5 Section 7-2-7 NMSA 1978 is enacted to read:

6 "7-2-7. [NEW MATERIAL] INDIVIDUAL INCOME TAX RATES. -- The  
7 tax imposed by Section 7-2-3 NMSA 1978 shall be at the  
8 following rates for any taxable year beginning on or after  
9 January 1, 2006 and ending on or before December 31, 2007:

10 A. For married individuals filing separate returns:

11 If the taxable income is:	The tax shall be:
12 Not over \$4,000	1.7% of taxable income
13 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
14	excess over \$ 4,000
15 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
16	excess over \$ 8,000
17 Over \$ 12,000	\$ 384 plus 5.3% of
18	excess over \$ 12,000.

19 B. For heads of household, surviving spouses and  
20 married individuals filing joint returns:

21 If the taxable income is:	The tax shall be:
22 Not over \$8,000	1.7% of taxable income
23 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
24	excess over \$ 8,000
25 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of

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1 excess over \$ 16,000  
2 Over \$ 24,000 \$ 768 plus 5.3% of  
3 excess over \$ 24,000.

4 C. For single individuals and for estates and  
5 trusts:

6 If the taxable income is:	7 The tax shall be:
8 Not over \$5,500	9 1.7% of taxable income
10 Over \$ 5,500 but not over \$ 11,000	11 \$ 93.50 plus 3.2% of
	12 excess over \$ 5,500
13 Over \$ 11,000 but not over \$ 16,000	14 \$ 269.50 plus 4.7% of
	15 excess over \$ 11,000
16 Over \$ 16,000	17 \$ 504.50 plus 5.3% of
	18 excess over \$ 16,000.

19 D. The tax on the sum of any lump-sum amounts  
20 included in net income is an amount equal to five multiplied by  
21 the difference between:

- 22 (1) the amount of tax due on the taxpayer's  
23 taxable income; and
- 24 (2) the amount of tax that would be due on an  
25 amount equal to the taxpayer's taxable income and twenty  
percent of the taxpayer's lump-sum amounts included in net  
income."

Section 3. A new section of the Income Tax Act is enacted  
to read:

"[NEW MATERIAL] TAX REBATE--2005 TAXABLE YEAR. --

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1           A. Except as otherwise provided in this section,  
2 any resident who files an individual New Mexico income tax  
3 return and who is not a dependent of another individual is  
4 entitled to a tax rebate during the 2005 taxable year for a  
5 portion of state and local taxes to which the person has been  
6 subject during the 2005 taxable year, even if the resident has  
7 no income taxable pursuant to the Income Tax Act.

8           B. For the purposes of this section, the total  
9 number of exemptions for which a tax rebate may be claimed or  
10 allowed is determined by adding the number of federal  
11 exemptions allowable for federal income tax purposes for each  
12 individual; provided that, in the case of a husband and wife  
13 who have filed a joint return where only one individual is a  
14 New Mexico resident, the number of exemptions shall be reduced  
15 by one.

16           C. Except as otherwise provided in Subsection D of  
17 this section, the tax rebate provided for in this section is  
18 allowed for the amount shown in the following tables:

19                   (1) For married individuals filing joint  
20 returns, heads of households filing returns and surviving  
21 spouses:

If taxable income is:			And the total number of exemptions is:					
Over	But not		1	2	3	4	5	6 or
	over							more
	\$0	\$8,000	\$100	\$140	\$175	\$205	\$230	\$250

1	\$8,000	\$16,000	\$90	\$125	\$155	\$175	\$190	\$200
2	\$16,000	\$24,000	\$80	\$110	\$135	\$150	\$160	\$170
3	\$24,000		\$60	\$85	\$100	\$110	\$120	\$125.

4 (2) For single individuals:

5	If taxable income is:		And the total number of exemptions is:					
6	Over	But not	1	2	3	4	5	6 or
7		over						more
8	\$0	\$5,500	\$100	\$140	\$175	\$205	\$230	\$250
9	\$5,500	\$11,000	\$90	\$125	\$155	\$175	\$190	\$200
10	\$11,000	\$16,000	\$80	\$110	\$135	\$150	\$160	\$170
11	\$16,000		\$60	\$85	\$100	\$110	\$120	\$125.

12 (3) For married individuals filing separate

13 returns:

14	If taxable income is:		And the total number of exemptions is:					
15	Over	But not	1	2	3	4	5	6 or
16		over						more
17	\$0	\$4,000	\$100	\$140	\$175	\$205	\$230	\$250
18	\$4,000	\$8,000	\$90	\$125	\$155	\$175	\$190	\$200
19	\$8,000	\$12,000	\$80	\$110	\$135	\$150	\$160	\$170
20	\$12,000		\$60	\$85	\$100	\$110	\$120	\$125.

21 D. If a resident's adjusted gross income is less  
22 than or equal to zero, the resident is entitled to a rebate in  
23 the amount shown in the first row of the table appropriate for  
24 the resident's number of exemptions.

25 E. Except as otherwise provided in this section, the

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1 secretary shall make an advance payment of the tax rebate  
2 provided for in this section not later than December 15, 2005 to  
3 each resident who filed a 2004 New Mexico personal income tax  
4 return. Advance payment amounts shall be based on the number of  
5 federal exemptions allowable for federal income tax purposes on  
6 the 2004 New Mexico personal income tax return of the resident  
7 for whom a rebate is allowed pursuant to this section and on the  
8 federal adjusted gross income reported by that resident on the  
9 same return. A resident who does not receive an advance payment  
10 may claim the tax rebate provided for in this section on that  
11 resident's 2005 New Mexico personal income tax return based on  
12 the federal adjusted gross income and on the number of federal  
13 exemptions allowable for federal income tax purposes reported on  
14 that return.

15 F. The department shall not make an advance payment  
16 of the tax rebate provided for in this section to a person who:

17 (1) was an inmate of a public institution for  
18 more than six months during the 2004 taxable year; or

19 (2) was not a resident of New Mexico on the  
20 last day of the 2004 taxable year.

21 G. The department shall not allow a tax rebate  
22 provided in this section to a person who claims the rebate on  
23 that person's 2005 personal income tax return, but:

24 (1) was an inmate of a public institution for  
25 more than six months during the 2005 taxable year; or

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1 (2) was not a resident of New Mexico on the  
2 last day of the 2005 taxable year.

3 H. The secretary may adopt regulations necessary to  
4 administer the provisions of this section.

5 I. For purposes of this section, "dependent" means  
6 "dependent" as defined by Section 152 of the Internal Revenue  
7 Code, but also includes any minor child or stepchild of the  
8 resident who would be a dependent for federal income tax  
9 purposes if the public assistance contributing to the support of  
10 the child or stepchild was considered to have been contributed  
11 by the resident. "

12 Section 4. A new section of the Income Tax Act is enacted  
13 to read:

14 "[NEW MATERIAL] EXEMPTION--2005 TAXABLE YEAR REBATE. --The  
15 tax rebate made for the 2005 taxable year pursuant to this 2005  
16 act is exempt from state income tax. "

17 Section 5. TEMPORARY PROVISION--DEDUCTION--GROSS RECEIPTS  
18 TAX--SALES OF TANGIBLE PERSONAL PROPERTY--LIMITED PERIOD. --  
19 Receipts from the sale at retail of any item of tangible  
20 personal property may be deducted from gross receipts if the  
21 sale of the property occurs during the period beginning at 12:01  
22 a.m. on December 2, 2005 and ending at midnight on December 4,  
23 2005 and if the sales price of the item is less than five  
24 hundred dollars (\$500).

25 Section 6. APPROPRIATION.--Five hundred thousand dollars  
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1 (\$500,000) is appropriated from the general fund to the taxation  
2 and revenue department for expenditure in fiscal years 2006 and  
3 2007 to administer the tax rebate provided pursuant to this 2005  
4 act. Any unexpended or unencumbered balance remaining at the  
5 end of fiscal year 2007 shall revert to the general fund.

6 Section 7. REPEAL. --

- 7 A. Laws 2003, Chapter 2, Section 5 is repealed.
- 8 B. Laws 2003, Chapter 2, Section 6 is repealed.
- 9 C. Laws 2005, Chapter 104, Section 2 is repealed.
- 10 D. Laws 2005, Chapter 104, Section 3 is repealed.

11 Section 8. APPLICABILITY. --The provisions of Sections 1, 3  
12 and 4 of this act apply to the taxable year beginning on January  
13 1, 2005 and ending on December 31, 2005.

14 Section 9. EFFECTIVE DATE. --The effective date of the  
15 provisions of Section 2 of this act is January 1, 2006.

16 Section 10. EMERGENCY. --It is necessary for the public  
17 peace, health and safety that this act take effect immediately.